United Nations S/2011/658

Security Council

Distr.: General
25 October 2011

Original: English

## Letter dated 24 October 2011 from the Secretary-General addressed to the President of the Security Council

I wish to inform you that Mr. Jérôme Tubiana (France, regional expert), and Mr. Claudio Gramizzi (Italy, arms expert), who I appointed on 7 and 24 February 2011, respectively, to serve on the Panel of Experts on the Sudan, have resigned effective 7 and 10 October 2011.

In consultation with the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, I have appointed Mr. Brian Johnson-Thomas (United Kingdom of Great Britain and Northern Ireland, arms expert) and Mr. Issa Maraut (France, regional expert) to serve on the Panel of Experts.

Moreover, following the expiration on 19 October 2011 of the contract of Mr. Rajiva Sinha (India, finance expert) in consultation with the Committee, I have appointed Mr. Debi Prasad Dash (India, finance expert) to serve on the Panel of Experts.

I have also designated Mr. Dash to serve as Coordinator of the Panel of Experts.

I should be grateful if you would bring this information to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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United Nations S/2011/659

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25 October 2011

Original: English

# Letter dated 20 October 2011 from the Secretary-General addressed to the President of the Security Council

I have the honour to draw your attention to Security Council resolution 1966 (2010) of 22 December 2010 establishing the International Residual Mechanism for Criminal Tribunals and to the statute of the Mechanism annexed thereto.

Article 8 of the statute provides that the Mechanism shall have a roster of 25 independent judges, not more than 2 of whom may be nationals of the same State. The judges shall only be present at the seats of the branches of the Mechanism as necessary at the request of the President to exercise the functions requiring their presence and shall not receive any remuneration or other benefits for being on the roster. The terms and conditions of service of the judges for each day on which they exercise their functions for the Mechanism shall be those of the judges ad hoc of the International Court of Justice.

Article 10, paragraph 1, of the statute provides that the judges of the Mechanism shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges, preferably from among persons with experience as judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda, from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within 60 days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 9, paragraph 1, of the statute;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received, the Security Council shall establish a list of not less than 30 candidates, taking due account of the qualifications set out in article 9, paragraph 1, and adequate representation of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list, the General Assembly shall elect 25 judges of the Mechanism. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should



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more than two candidates of the same nationality obtain the required majority vote, the two who received the highest number of votes shall be considered elected.

Pursuant to article 10, paragraph 1 (a), of the statute, the Legal Counsel sent a letter on my behalf on 23 June 2011 to Member States and non-member States maintaining permanent observer missions inviting nominations within 60 days of the invitation. As the number of nominations received by the deadline of 22 August 2011 was insufficient, the Assistant Secretary-General for Legal Affairs sent another letter on 24 August 2011 indicating that the deadline was extended to 16 September 2011. By the extended deadline, 35 candidates had been nominated by 28 Member States. The Security Council may also wish to consider the nomination by Serbia of Ms. Olivera Andjelkovic and Ms. Tatjana Vukovic, which was received after the extended deadline.

In accordance with article 10, paragraph 1 (c), of the statute, I have the honour to forward for the consideration of the Security Council the 37 nominations that were received. In this connection, I would like to draw the attention of the Security Council to article 9 of the statute, which provides as follows:

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. Particular account shall be taken of experience as judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda.

2. In the composition of the Trial and Appeals Chambers, due account shall be taken of the experience of the judges in criminal law, international law including international humanitarian and human rights law.

As stated in article 10, paragraph 3, of the statute, the judges of the Mechanism shall be elected for a term of four years and shall be eligible for reappointment by the Secretary-General after consultation with the Presidents of the Security Council and the General Assembly.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

United Nations S/2011/660

Security Council

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25 October 2011
English
Original: Arabic

## Letter dated 25 October 2011 from the Permanent Representative of Libya to the United Nations addressed to the President of the Security Council

I have the honour to inform you that the National Transitional Council has announced the full liberation of Libya from the dictatorial regime of Muammar Qadhafi, the city of Sirte having been taken and Colonel Qadhafi having died on 20 October 2011 after suffering serious injuries during the clash between the revolutionaries and the Qadhafi loyalists who were trying to protect him and effect his escape from Sirte.

After 42 years of autocracy, terrorism and human rights violations, 20 October 2011 was a historic day for the Libyan people, when it was proclaimed that the dictatorship was over and a new Libya was born, a democratic Libya that respects human rights and protects fundamental freedoms.

The National Transitional Council affirms that the danger that justified the call for a no-fly zone over Libya no longer exists, and that the new Libyan authorities are able to protect civilians without outside assistance. It therefore requests the Security Council to take the measures necessary to terminate by 31 October 2011 the authorization provided under Security Council resolution 1973 (2011) relating to the imposition of a no-fly zone and the protection of civilians.

The National Transitional Council would like to thank the United Nations Secretary-General and all the States that contributed to the implementation of the Security Council resolutions on Libya for supporting the Libyan people from the inception of their uprising to the day on which they rid themselves of the tyrant.

I should be grateful if you would have this letter circulated as an official document of the Security Council.

(*Signed*) Abdurrahman Mohamed **Shalgram**
Ambassador
Permanent Representative

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United Nations S/2011/661

Security Council

Distr.: General
25 October 2011

Original: English

# Report of the Secretary-General on the protection of Somali natural resources and waters

## I. Introduction

1. The present report is submitted pursuant to paragraph 7 of Security Council resolution 1976 (2011), in which the Council requested me to report on the protection of Somali natural resources and waters and on alleged illegal fishing and illegal dumping, including of toxic substances, off the coast of Somalia. The Council noted its concern that allegations of illegal fishing and dumping of toxic waste have been used by pirates to justify their criminal activities.

2. The present report reviews information currently available relating to illegal fishing and illegal dumping off the coast of Somalia and assesses the potential environmental and economic costs for the country. It also examines the status of Somalia's natural resources and the corresponding legal framework on their protection and exploitation. The report is based on existing research and on contributions by United Nations departments, funds and programmes, as well as field and expert interviews and inputs provided by Member States, regional organizations and regional fisheries management organizations. Based on this collated information, the report puts forward observations and recommendations for policy, legal and programmatic action.

## II. Somali natural resources and waters

### A. Overview

3. Somalia is an arid to semi-arid country where 80 per cent of livelihoods are directly dependent on the natural resources base. Livestock has traditionally been the most important sector, while agriculture has provided staple and cash crops. These livelihoods are supported further by the exploitation of the natural resource base, such as charcoal production and trees for fodder. Despite strong environmental awareness, especially by pastoralists who are the dominant land users, the country suffers from critical levels of ecological degradation that may be difficult to reverse. Some 30 per cent of the land (catchments, range areas and agricultural lands) is considered degraded.

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4. Somalia possesses important biodiversity and a large number of species exclusive to the Horn of Africa, which includes numerous varieties of flora and fauna that have adapted to the arid conditions. Owing to the current environmental situation and overexploitation, many of these species are endangered and their habitats threatened.[1] Much of the country's once abundant and significant diversity of wildlife is now endangered.

5. One of the conclusions of a global policy report released by the United Nations Environment Programme (UNEP) in 2009 stated that "... the way that natural resources and the environment are governed has a determining influence on peace and security".[2] This conclusion holds especially true for Somalia given the scarcity of natural resources and the level of resource-dependent livelihoods. Environmental issues and the poor governance of natural resources are multisectoral and impact all aspects of life. The lack of State control or governance results in widespread misuse of Somalia's natural resources, as well as restricted access and elite capture. Degradation of natural resources is compounded by the effects of climate change, increased population pressures, conflicts and rapid urbanization.

## B. Livestock and agriculture

6. For centuries, pastoralism has been the dominant livelihood and source of income for Somalia's predominantly rural population; this includes both nomadic and sedentary herding of cattle, sheep, goats and camels. Some 55 per cent of households are based on pastoralism or agro-pastoralism,[3] with livestock contributing over 40 per cent of gross domestic product (GDP).[4] More than 70 per cent of the land area is dedicated to agriculture through rain-fed and irrigated farming systems, and 24 per cent of households are based on agriculture.[5]

7. The prolonged civil war has seriously impacted livestock and agriculture. This includes loss of productive assets, including livestock and irrigation equipment to militias, as well as expulsion from farms, especially in the south. Knowledge of fruit tree management and harvesting systems has largely gone with the displaced. Agricultural production has also been affected by frequent droughts in 1987, 2000, 2004, 2008 and 2010-2011. Disputes over property and land rights have increased owing to the growing scarcity of land. Land speculation and illegal enclosures in common pasturelands are also on the rise, resulting in an increase in local conflicts.[6]

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[1] Omuto, C. T. and others, "Land degradation assessment and a monitoring framework in Somalia", Technical Project Report L-14 (Nairobi, Food and Agriculture Organization of the United Nations-Somalia Water and Land Information Management, 2009).

[2] Available from http://www.unep.org/pdf/pcdmb_policy_01.pdf.

[3] United Nations and World Bank Coordination Secretariat, *Somali Joint Needs Assessment: Productive Sectors and Environmental Cluster Report* (2007). Available from http://www.somali-jna.org/downloads/vol5_V.pdf.

[4] International Union for Conservation of Nature, "Country Environmental Profile for Somalia" (2006).

[5] World Bank Country Profile. Available from http://data.worldbank.org/country/somalia (accessed July 2011).

[6] Independent Scholars Group, "Need to Address Pastoral Land Degradation and Increasing Rural Conflicts in Somaliland", *Somaliland Times*, Issue 473, February 2011. Available from http://www.somalilandtimes.net/sl/2011/473/30.shtml.

8. Poverty levels are aggravated by rising food prices, which are the result of rising fuel costs, lower agricultural production, inflation and the rise in maritime freight charges on imported goods due to piracy and armed robbery at sea.[7] More than 50 per cent of cereal requirements come from commercial imports and food relief programmes. Ongoing violence in the country also makes it challenging to get food to those most in need. Furthermore, environmental degradation is reducing the availability of water, the amount of land usable for agriculture or grazing, and biodiversity. It is also causing displacement as areas become uninhabitable, further eroding sustainable livelihoods and making piracy and armed robbery at sea attractive.

9. Exports of livestock and their products account for 80 per cent of all Somali exports in normal years. About 2 million animals are exported per year, generating about 40 per cent of GDP.[8] Despite an import ban imposed by Saudi Arabia in 2000, livestock exports continue to be the largest traded commodity for Somalia.[9] However, prior to the current drought that has decimated livestock, the numbers of livestock were reported to be exceeding the carrying capacity, resulting in overgrazing and outbreaks of livestock disease.

## C. Fresh water, sanitation, and waste management

10. Northern and central Somalia suffer from acute water shortages, with the available water being mainly saline. Since 1991, the vital water points in those regions have not received appropriate maintenance by government authorities to provide the necessary water for drinking and cultivation purposes. Somaliland in the north-west faces a water crisis with "entire villages ... abandoned as adverse climate change is reducing water sources".[10] There are no rivers in the north-eastern regions, where the majority of the population depends on cattle rearing. Southern Somalia is generally greener, with two permanent rivers, the Jubba and Shebele, which are shared with Ethiopia. These rivers and the underground aquifers are widely exploited. The remaining water courses are ephemeral, yet provide important water sources (wells) and account for relatively richer vegetation in their vicinity.

11. Water rights have been a major cause of conflict between groups of pastoralists, often exacerbated by externally funded water development schemes.[11] In rural Somaliland and Puntland, the construction of unplanned private water development, mainly by wealthy livestock owners, is increasing pressure on the surrounding rangeland. This is exacerbated by the increased use of private enclosures for grass, which curtails grazing routes and is the source of most rural conflicts.[12]

12. The quantity and quality of water resources are a major development challenge for Somalia, aggravated by recurrent devastating droughts and irregular rainfalls

[7] Mahamoud, A. E., "Somalia: A Defenceless Country" in *Social Watch Report 2009*, pp. 152-153. Available from http://issuu.com/socialwatchcz/docs/sw_report_2009.

[8] International Union for Conservation of Nature, Eastern Africa Regional Office, *Country environmental profile for Somalia* (n.d.) (pre-publication draft).

[9] FAO: http://faosomalia.org/livestock.

[10] Mahamoud, A. E., "Somalia: A Defenceless Country", op. cit.

[11] Norton, G., *Land, Property and Housing in Somalia*, Oslo, Norwegian Refugee Council (2008).

[12] Independent Scholars Group, op. cit.

that vary according to location and season. Furthermore, inadequate distribution of water, along with the increasing scarcity and widespread misuse and mismanagement of water, poses a serious and growing threat to sustainable development. In 2008, only 30 per cent of Somalia's population had access to improved sources of water (only 9 per cent in rural areas), and 23 per cent had access to improved sanitation facilities (6 per cent in rural areas).[13] Furthermore, nomadic populations, their livestock and wildlife are forced to share the remaining meagre water resources. Somalia is predicted to be one of 13 African countries that will face water scarcity by 2025, partly because of human activities, such as deforestation for charcoal production, overgrazing or crowding around watering points and other inappropriate land use measures.[14]

13. The urban areas in southern-central Somalia suffer from poor solid, municipal and industrial waste management and non-functional sanitation.[15] Waste and garbage are piled around cities, creating a situation of uncontrolled and unmanaged hazardous waste. The public is exposed to these hazardous materials on a daily basis through the air, food, water and consumer products.[16] In Mogadishu, an earlier waste removal programme supported by the International Organization for Migration (IOM) could not be sustained. In cooperation with the Benadir administration, the United Nations Human Settlements Programme (UN-Habitat) has started a multi-year programme that would also establish sustainable solid waste management systems under public-private partnerships. UN-Habitat has also helped to establish such systems in the major towns of Somaliland and has commenced similar programmes in a number of towns in Puntland.

14. Waste management is a critical concern given the absence of a functional government system in southern-central Somalia to manage domestic, municipal and industrial waste disposal. Environmental laws and regulations are non-existent. Seepage from illegal dumping sites is a potential contaminant of ground and surface water resources. Likewise, pesticide storage in Somaliland's Ayaha valley poses a serious health and environmental threat. Solid waste generated domestically is also dumped onto the shore and into the sea, causing damage to coastal and marine life.

## D. Forest and woodland resources

15. The charcoal trade is rapidly depleting Somalia's forests. Forestry and vegetation in Somalia are mainly coarse grass and stunted thorn and acacia trees, which constitute a critical component of pastoralist risk and drought management strategies, and are a central domestic energy source. Competing demands on these resources are arising from the growing charcoal industry that has long been a principal driver of Somalia's deforestation. Current trends reveal the limits of this economy. Forests represented about 13 per cent of Somalia's land area in 1990; in

[13] World Bank Country Profile, op. cit.

[14] World Agroforestry Centre, *An account of rainwater harvesting in Somalia* (n.d.). Available from http://worldagroforestry.org/projects/scarnet/index.php?id=53.

[15] Ibid.

[16] Kabil, A. S. O. and others, *Somalia's Situational Environmental Health Assessment of Three Zones: Somaliland, Puntland and South Central Mogadishu* (2010). Available from http://www.wardheernews.com/Articles_10/Nov/Situational%20Environmental%20health%20Assessment-Somalia.pdf.

2010 they only covered about 10.7 per cent.[17] Similarly, a recent study records an average rate of 27 per cent tree loss between 2001 and 2006 in north-eastern Somalia.[18] Old-growth acacia forests are cut down for charcoal and subsequently replaced by thorn bushes, rendering the land unusable for grazing.

16. Increasing domestic demand for charcoal coupled with an increase in charcoal exports in the 1970s resulted in alarming deforestation rates and led to a strictly enforced export ban under the Siad Barre regime. The ban remained in place until 1996, when charcoal exports soared, providing hard currency for competing faction leaders. The export ban was reimposed in 2000 and has been in effect albeit poorly enforced, under changing transitional administrations. In December 2010, the Transitional Federal Government reissued the ban. In response to government efforts, traders have stopped shipping charcoal out of Mogadishu and Marka almost entirely. However, the trade is booming in areas controlled by Al-Shabaab, mainly out of Kismaayo port. Most of the charcoal is imported by neighbouring countries.[19] It is estimated that Al-Shabaab currently generates between $70 million to $100 million per year in revenue from taxation and extortion in areas under its control, including from the export of charcoal and cross-border contraband into Kenya,[20] and between $35 million and $50 million per year from port revenues, of which at least $15 million is based on the export of charcoal.[21]

17. The charcoal industry has significant implications on livelihood security, exacerbating community conflicts and increasing vulnerability to drought. The industry is a source of tension, particularly with clans who dominate the trade at the expense of others. It is also a source of funding for militias. Most charcoal is made between Baraawe and Kismaayo, an area where conflict over the charcoal trade has turned violent.[22] It is also one of the first areas where famine was declared in 2011. This area's extreme vulnerability stems in part from poor environmental management, leading to desertification and water scarcity.

## E. Marine resources

18. Stretching over 3,330 kilometres, Somalia has the longest coastline of continental Africa and is part of one of the most important large marine ecosystems in the Indian Ocean. The presence of a narrow continental shelf in this region along the western Indian Ocean coupled with an upwelling, makes this area one of the most productive in the Indian Ocean and an important breeding ground for many migratory fish species. These factors, paired with a weak legal and institutional framework and the inability of the Transitional Federal Government to enforce laws

[17] World Bank Country Profile, op. cit.

[18] Oduori, S. M., and others, "Detection of tree cutting in the rangelands of north-eastern Somalia using remote sensing", Technical Project Report L-15 (Nairobi, FAO-SWALIM, 2009).

[19] Oduori, S. M., and others, "Detection of tree cutting", op. cit.

[20] Letter dated 18 July 2011 from the Chairman of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council (S/2011/433).

[21] Ibid.

[22] Baxter, Z., "Somalia Coal Production, Deforestation and the Recent Conflict", Inventory of Conflict and Environment — American University Case Study No. 201 (2007). Available from http://www1.american.edu/ted/ice/somalia-coal.htm.

within Somali waters, makes the area attractive for illegal, unreported and unregulated fishing.

19. The marine fishery sector of Somalia is underdeveloped, though there is the potential for longer-term growth. The sector is comprised of an artisanal component, which operates in inshore areas and accounts for the largest share of the landings, roughly 60 per cent. The inshore fishery is widely reported to be overexploited in some areas. While accurate statistics are difficult to attain,[23] recent data shows total landings of approximately 18,000 tons annually.[24]

20. An industrial portion, of mostly foreign-flagged vessels, accounts for approximately 40 per cent of total fishery production of Somalia.[25] The offshore pelagic fisheries have significant potential for development. Fisheries resources within 200 nautical miles off the coast of Somalia have been conservatively estimated to be capable of providing sustainable annual catches of 200,000 tons.[26] Because of the known substantial pelagic fish resources, including tuna and mackerel species which have high unit values, the long-term development of these resources could be of vast importance to the economy and food security in the region.

## F. Legal and institutional framework for environmental and natural resource management

21. There are a number of global and regional instruments that are relevant to illegal fishing and illegal dumping off the coast of Somalia, described below. While Somalia has signed various multilateral environment agreements, they are not enforced.[27] These instruments serve to affirm a country's commitment to protecting natural resources, and provide governments with a framework for domestic implementation of more stringent environmental oversight.

22. Since the overthrow of the Siad Barre regime in 1991, there has been little or no national framework for environmental and natural resource governance in Somalia due to the absence of an effective central government. Environmental affairs and the management of natural resources have been the remit of various ministries over the years. Generally speaking, policy and legislation related to the environment and natural resources is weak and outdated,[28] with some national sector policies and legislation dating back to the pre-war period. Furthermore, without adequate support from enabling institutions, laws have not been enforced.

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[23] It is important to note that all statistics dealing with Somali fisheries and related activities have very restricted utility as some limited data were gathered before the civil war of 1991, but, since that time, it is not possible to provide statistics with confidence.

[24] FAO Fishery Country Profile for Somalia (2005). Available from ftp://ftp.fao.org/FI/DOCUMENT/fcp/en/FI_CP_SO.pdf.

[25] FAO summary of fisheries and resource information for Somalia. Available from http://www.fao.org/docrep/field/303859/3038590b.htm.

[26] This information is based on several fish surveys conducted in the 1970s and 1980s.

[27] United Nations and World Bank Coordination Secretariat, Somali Joint Needs Assessment, op. cit.

[28] International Union for Conservation of Nature, "Country Environmental Profile for Somalia", op. cit.

23. The new Transitional Federal Government Ministry of Fisheries, Marine Resources and Environment agreed in 2010 to incorporate environmental dimensions into all phases of the conflict transformation process and planning strategies.[29] In July 2011, the Transitional Federal Government set up a national Disaster Management Agency in response to the drought ravaging the country.

24. The levels of competency of Somali institutions responsible for environmental affairs and natural resources differ widely depending on their history and experience. Attempts to establish new environmental policies and legislation, together with the respective institutions, have been made in the regional administrations of Somaliland and Puntland. The relevant ministries in those regional administrations have limited human resources, and there is very limited capacity to implement programmes at the regional and district level.

25. The absence or weakness of legal and institutional frameworks for environmental management in Somalia contributes to tensions around access to and ownership of natural resources and land tenure. Competition for land and other natural resources has been identified as one of the key contributing factors to violent conflict and instability.[30] There have been many conflicts over land, mainly urban but increasingly rural, over the past two decades, mainly in Somaliland but also in Puntland, and to a lesser extent in southern and central Somalia. Local-level land conflicts often contain a clan component intermingled with other political and economic interests, increasing the potential to escalate into wider intercommunity conflict.[31] The lack of governance also facilitates illegal trade, piracy and armed robbery at sea in the region. Geographical risk factors for flooding, recurrent drought (localized and regional) or locust infestation illustrate the need for the implementation of effective environmental and disaster management programmes.

## G. International law of the sea

26. The 1982 United Nations Convention on the Law of the Sea sets out the legal framework within which all activities in the oceans and seas must be carried out. Many of its provisions are considered to be reflective of customary international law.[32] Somalia ratified the Convention in July 1989, and it entered into force for Somalia on 16 November 1994. As at September 2011, there were 162 parties to the Convention, including the European Union. The Convention includes provisions regarding the protection and preservation of the marine environment, the establishment of maritime zones and the rights and obligations of flag States. It also sets out the legal framework applicable to combating piracy and armed robbery at sea.

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[29] Wardheer News press release. Available from http://wardheernews.com/Press_Releases/TFG/June_01_GEF.html.

[30] Catherine Besteman and Lee Cassanelli (editors), *The Struggle for Land in Southern Somalia: The War behind the War*, Haan Publishers (n.d.).

[31] Norton, G., *Land, Property and Housing in Somalia*, op. cit.

[32] Available from http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm.

**Maritime zones**

27. Pursuant to the Convention, a coastal State such as Somalia is entitled to a territorial sea not exceeding 12 nautical miles from its baselines. Within its territorial sea, the coastal State exercises sovereignty, including over its resources. In a zone contiguous to its territorial sea, which may not extend beyond 24 nautical miles from the baselines (the contiguous zone), the coastal State may exercise the control necessary to prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea or punish infringement of these laws and regulations committed within its territory or territorial sea.

28. In addition, a coastal State may establish an exclusive economic zone not extending beyond 200 nautical miles from its baselines, where the coastal State has sovereign rights for the purposes of exploring and exploiting, conserving and managing natural resources. Within its exclusive economic zone, the State also has jurisdiction with regard to the protection and preservation of the marine environment. Foreign-flagged fishing vessels in the exclusive economic zone of a coastal State are required to comply with the conservation measures and other terms and conditions established in the laws and regulations of the coastal State. The United Nations Convention on the Law of the Sea also provides for the enforcement of laws and regulations of the coastal State in the exclusive economic zone with respect to living resources, including boarding, inspection, arrest and judicial proceedings as well as the protection and preservation of the marine environment.

29. Somalia appears not to have proclaimed an exclusive economic zone in accordance with the Convention on the Law of the Sea. Its national legislation, Law No. 37 on the Territorial Sea and Ports (1972), transmitted to the Secretary-General by a letter from the Permanent Representative of Somalia dated 20 December 1973, provides for a 200 nautical mile territorial sea. The lack of information on the harmonization of national legislation of Somalia with the Convention creates legal ambiguity.

30. Regarding navigation, pursuant to the Convention, other States enjoy the right of innocent passage through the territorial sea. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. The coastal State may take the necessary steps within its territorial sea to prevent passage that is not innocent, including when a foreign-flagged ship engages in an act of wilful and serious pollution contrary to the Convention, or any fishing activities. Coastal States may also adopt laws and regulations relating to innocent passage, and foreign-flagged ships exercising the right of innocent passage within the territorial sea are required to comply. In certain circumstances, a coastal State may exercise criminal jurisdiction on board a foreign ship within its territorial sea, including when the consequences of the crime extend to the coastal State, or if the crime disturbs the peace of the country or the good order of its territorial sea.

31. All States enjoy the freedoms of navigation and overflight on the high seas and in the exclusive economic zone, as well as other internationally lawful uses of the sea related to those freedoms, and compatible with the other provisions of the Convention. On the high seas, all States have the freedom to undertake activities, including fishing, with due regard for the interests of other States in their exercise of the same freedoms.

**Flag States**

32. Subject to certain exceptions, under the Convention on the Law of the Sea, all ships must sail under the flag of one State only. Flag States play an important role in addressing illegal fishing and illegal dumping at sea, as they are required to effectively exercise jurisdiction and control over vessels flying their flag, and to ensure that their vessels act in conformity with applicable rules of international law, wherever the vessels may be located. Flag States that do not appropriately exercise their jurisdiction and control thus contribute to the perpetuation of illegal activities by their vessels.

**Protection and preservation of the marine environment**

33. In accordance with the Convention, States are required to take all measures necessary to prevent, reduce and control pollution of the marine environment from any source, including pollution by dumping. States are also required to take all measures necessary to ensure that activities under their jurisdiction or control do not cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights. More specifically, the Convention provides that dumping within the territorial sea and the exclusive economic zone shall not be carried out without the express prior approval of the coastal State.

# III. Allegations of illegal fishing

## A. International framework to address illegal, unreported and unregulated fishing

34. Illegal, unreported and unregulated fishing[33] and related activities are a major problem globally,[34] inter alia, jeopardizing fisheries and frustrating attempts to protect the marine environment. In the context of illegal, unreported and unregulated fishing, illegal fishing has been defined to include activities conducted by national or foreign-flagged vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations. Illegal, unreported and unregulated fishing is pervasive, occurring in all regions of the world and in most fisheries. Both domestic fishing fleets and foreign-flagged vessels can be involved. Illegal, unreported and unregulated fishing poses a complex problem, varying significantly between fisheries and regions. The cumulative global impact is significant: recent estimates indicate that the annual global losses due to illegal, unreported and unregulated fishing may range from $10 billion to $23 billion,

[33] See International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing for full definitions, chap. II, paras. 3.1-3.3. Available from http://www.fao.org/docrap/003/y1224e/y1224e00.htm.

[34] Recent estimates indicate that the annual global losses due to illegal, unreported and unregulated fishing may range from $10 billion to $23 billion, although accurate quantification remains difficult due to the covert nature of the activities.

although accurate numbers are not available due to the covert nature of the activities.[35]

35. Combating illegal, unreported and unregulated fishing requires the application of different types of tools as envisaged in the 2001 Food and Agriculture Organization of the United Nations (FAO) International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing[36] and other subsequent international instruments aimed specifically at reducing illegal, unreported and unregulated fishing. The guide to the Implementation Plan[37] contains a checklist of activities that provides recommendations dealing with vessels, basic management of fisheries, and regulation of activities. This serves as a "best practice" guide for combating illegal, unreported and unregulated fishing for all States. There is no single solution to illegal, unreported and unregulated fishing situations. To address the problem, Somalia and the region would need tailored tools and approaches.

36. In 2009, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing[38] was approved by the FAO Conference at its thirty-sixth session as a cost-effective tool to combat illegal, unreported and unregulated fishing. The legally binding agreement has currently been signed by 23 countries and the European Union. When it enters into force, in accordance with its terms, it will apply to foreign-flagged fishing vessels when they seek entry to a port or are in port. The Agreement sets minimum standards in a number of areas, such as the information required by a vessel prior to being granted entry into port, and functions of a port inspector. It is designed to allow port States to have information in advance of a vessel's entry in order to assess the likelihood that a vessel has engaged in illegal, unreported and unregulated fishing, which could lead to a denial of entry.

37. Another measure is the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels, which is currently being developed by FAO and is designed to enhance global information sharing on fishing fleets. The global record database will provide basic identification information about vessels through the use of a unique vessel identifier as currently used by the merchant fleet. This will increase the transparency of vessel-related information, making it more difficult and more expensive for illegal operators to harvest, transport and sell illegal fish products.

## B. Illegal, unreported and unregulated fishing in the context of Somalia

38. Without adequate monitoring or reporting systems, it is difficult to provide detailed information related to illegal, unreported and unregulated fishing off Somalia's coast. Several reports estimate a large number of foreign-flagged vessels engaged in unlicensed and unregulated fishing in the area. According to a recent

[35] Agnew, DJ, and others, "Estimating the Worldwide Extent of Illegal Fishing", Public Library of Science ONE (2009). Available from http://www.plsone.org/article/info:doi/10.1371/journal.pone.0004570.

[36] Available from http://www.fao.org/docrap/003/y1224e/y1224e00.htm.

[37] FAO, *Technical Guidelines for Responsible Fishing No. 9* (Rome, 2002). Available from www.fao.org/fishery/publications/technical-guidelines/en.

[38] Available from http://www.fao.org/Legal/treaties/037t-e.pdf.

study by the University of British Columbia, fish catches in Somali waters in 2002 were about 60,000 tons, of which half were taken by foreign-flagged vessels.[39] Conclusive information about the legality of those catches is unavailable.

39. The fisheries situation in Somalia is aggravated by a number of factors: inadequate national fisheries management,[40] poor governance,[41] lack of dedicated government resources and underdeveloped regional cooperation. Many of the underlying conditions that enable illegal, unreported and unregulated fishing in Somalia and elsewhere are further fuelled by lack of transparency and financial incentives that allow illegal activities to go undetected or unaddressed. These conditions must be addressed if governance is to be enhanced, outcomes improved and inroads made to prevent, deter and eliminate illegal, unreported and unregulated fishing.

40. According to a number of Somali and international observers, with the fall of the Siad Barre regime, foreign-flagged industrial fishing trawlers began encroaching on the resource-rich Somali waters. Local accounts purport that these vessels frequently engaged in intentional collisions with local fishermen in Somali waters, leading to the destruction of fishing gear, injuries and even deaths of local subsistence fishers. According to a 2005 FAO estimate, approximately 700 foreign-flagged trawlers were engaged in illegal, unreported and unregulated fishing in and around Somali waters.[42] However, in the absence of monitoring and sanctions mechanisms, these accounts remain unverified. The socio-economic and ecological damage caused by the alleged illegal exploitation of Somalia's marine resources over the past two decades could be considerable. By some estimates, 50 per cent of annual overall catch in the western Indian Ocean is fished illegally,[43] a figure potentially higher in the largely unmonitored waters off Somalia.

41. Guidance promulgated by IMO advises governments to ensure that fishing vessels entitled to fly their flag do not engage in fishing activities within 200 miles off the coast of Somalia and calls upon Member States operating naval forces in the area to identify publicly any fishing vessels found to be doing so.

42. Somalia is one of the 18 signatory States to the Djibouti Code of Conduct,[44] the IMO-led counter-piracy initiative for the Gulf of Aden and western Indian Ocean. As part of the Djibouti Code implementation programme, IMO is planning to assist Somalia in developing its maritime law enforcement capabilities and, ultimately, to develop its ability to perform a range of coast guard functions, including protection of fisheries.

43. There are reports that local warlords and officials from various Somali entities have sold false fishing licences to foreign-flagged vessels. Somalis also report observing foreign trawlers fishing in Somalia's coastal waters. It is not clear whether

[39] Available from http://www.seaaroundus.org/project.htm.

[40] Broad guidance is contained in the Code of Conduct for Responsible Fisheries, article 7, fisheries management, FAO (Rome, 1995).

[41] Fishery governance has international, national and local dimensions. It includes legally binding rules, such as national policies and legislation or international treaties, as well as customary social arrangements. It is multiscale, covering long-term strategic planning and short-term operational management and local fisheries as well as whole ecosystems.

[42] Available from http://www.fao.org/fi/oldsite/FCP/en/SOM/profile.htm.

[43] Agnew, DJ, and others, "Extent of Illegal Fishing", op. cit.

[44] See IMO, document C 102/14, annex, attachment 1.

some cases of foreign commercial fishing have been authorized and whether the issuing Somali entities have the authority to grant this permission.

44. It was widely reported that the surge of piracy since 2004 led to decreased illegal fishing off the Somali coast. Today, some observers claim that the international naval presence to suppress piracy, authorized by the Security Council, has in fact inadvertently facilitated a resurgence of illegal fishing in Somali waters.[45] Due to a lack of a formal monitoring, these claims cannot be verified.

45. My former Special Adviser on Legal Issues Related to Piracy off the Coast of Somalia, Jack Lang, emphasized in his report that part of the counter-piracy response of States and regional organizations should be to support sustainable economic growth in Somalia. This includes efforts to develop Somalia's fisheries and port activities, which would help expand economic opportunities in the country and contribute to the eradication of piracy (see S/2011/30, annex).

## IV. Allegations of illegal dumping, including toxic waste

46. In the past few decades, multiple cases of illegal dumping have been documented in Africa.[46] In the 1980s, a lucrative international trade in hazardous wastes had developed, with industrialized countries exporting hazardous wastes to developing countries. These materials were sent to countries in need of hard currency, but often with limited knowledge of the hazardous nature of the waste or the capacity to dispose of the waste safely. Dumping can have devastating consequences on public health and on ecosystems and natural resources, and it has the potential to jeopardize peoples' livelihoods. As a response, the international community has established a number of environmental agreements and protocols to restrict and manage the practice.

47. Allegations of the illegal dumping of various types of waste, including radioactive, hazardous and medical, on land and in Somali waters, have been made for almost 20 years. Circumstantial evidence indicates that the dumping of illegal waste occurred during the 1990s, but verification has not been possible due to the security situation in Somalia. Further investigations are needed to ascertain the validity of both historic and more recent claims. Information about illegal hazardous

[45] The Counter-Piracy Programme of the United Nations Office of Drugs and Crime arranges frequent visits to Somalia, including Puntland. Local fishermen report fear of going "beyond the horizon", claiming that the bodies of their peers have washed ashore with bullet holes to the head, purportedly inflicted by foreign-flagged vessels engaging in illegal, unreported and unregulated fishing. These reports remain unverified.

[46] The two most prominent examples occurred in Nigeria and Côte d'Ivoire. In 1987, five ships transported 18,000 barrels of hazardous waste (including polychlorinated biphenyls) from Italy to the small town of Koko, in Nigeria, in exchange for $100 monthly rent, paid to a Nigerian farmer for the use of his land. More recently, in August 2006, toxic waste was transported to the port of Abidjan by a ship registered in Panama, the *Probo Koala*, chartered by the Swiss oil and commodity shipping company, Trafigura Beheer BV. The substance was then dumped by a local contractor in up to 12 sites around the city of Abidjan. UNEP provided immediate environmental emergency assistance to the Government of Côte d'Ivoire by deploying several environmental experts on the United Nations Disaster Assessment and Coordination team. After the emergency was over, UNEP provided technical assistance, training and equipment to prevent such a situation from happening again.

waste dumping off the coast of Somalia is unconfirmed,[47] but stems from reputable sources and related data.[48,49] Whether these allegations or practices have direct links to piracy, as some convicted pirates claim,[50] remains in question.

48. There are persistent, albeit unverified, reports of illegal incursions by foreign-flagged vessels since the collapse of the central State in 1991 until the present.[51] These include several unconfirmed reports of waste shipments via sea from Europe. INTERPOL and other agencies have published a number of reports on illegal shipments of waste globally, and over the past two years, INTERPOL has received reports of illegal, unreported and unregulated fishing and illegal waste dumping off the coast of Somalia.[52,53] However, to date, INTERPOL has not been in a position to investigate and confirm these reports.

## A. Summary of assessments and reports

49. Reports from different national and international sources contributed to efforts to assess the various allegations. However given the security situation in Somalia, such assessments have had limited field access. Therefore, to date, there is no

[47] The route, destination and possible disposition of waste remain unverified and uncertain. The North Atlantic Treaty Organization (NATO) has one ongoing operation in the Gulf of Aden and related seas, Operation Allied Protector, related to piracy in the region. The operation is being conducted by five ships that are part of the Standing NATO Maritime Group 1. Informal information given to INTERPOL suggests that information may be available from the naval force present off the coast of Somalia that vessels suspected of illegal activity, either in fishing or the dumping or transport of waste, may have been intercepted and boarded as part of intergovernmental marine security operations in the region. There are also unverified informal reports that this operation may have revealed circumstantial evidence of letters from tribal chiefs or warlords approving or sanctioning illegal fisheries. However, a much more extensive investigation is required to verify or reject these allegations, and it remains unclear to what degree this also includes dumping of waste.

[48] For comparison, in the framework of its Global E-Waste Crime Group, INTERPOL notes that 36 per cent of the total of 8.6 million tons of electronic waste generated in the countries of the European Union in 2010 was collected and treated. The other 64 per cent, or 5.5 million tons, disappeared into complementary streams. One such complementary stream is the illegal export of such waste to countries that are not members of the Organization for Economic Cooperation and Development. There remains, however, much uncertainty about the final destination and handling of the complementary streams, and the focus of science and law enforcement has so far been on illegal dumping and handling on land.

[49] Huisman, J., Luepschen, C. and Wang, F., Waste of Electronic and Electrical Equipment recast: How to avoid another "paper" collection target? Paper presented at the tenth International Electronics Recycling Congress, held in Salzburg, Austria, in January 2011.

[50] Interviews with convicted senior pirates.

[51] Case studies have been presented by the following, among others: Percy, S. and Shortland, A., "The Business of Piracy in Somalia" (Berlin, German Institute for Economic Research, 2010); Hughes, J., "The Piracy-Illegal Fishing Nexus in the Western Indian Ocean" (West Perth, Australia, Future Directions International, 2011); Marchal, R., "Somali Piracy: The Local Contexts of an International Obsession", in *Humanity: an academic Journal on human rights, humanitarianism and development*, vol. 2, issue 1 (University of Pennsylvania Press, 2011). Available from http://humanityjournal.org/humanity-volume-2-issue-1/somali-piracy-local-contexts-international-obsession.

[52] INTERPOL, *The Waste Transport Checks Manual* — AUGIAS (Lyon, 2008).

[53] INTERPOL, *Electronic waste and organized crime — assessing the links* (Lyon, 2009).

comprehensive study with supporting evidence to corroborate the allegations of illegal dumping, as described further below.

50. In 1992, in response to a request from the authorities of Somaliland, the (interim) Secretariat of the Basel Convention and UNEP undertook a fact-finding mission to investigate reports of contracts and letters of intent signed for the establishment of hazardous waste treatment and storage facilities in Somalia. The mission concluded that the letters of intent and the contracts may have been signed, but found no evidence of their execution. Based on a limited number of field samples and stakeholder interviews, the mission found no conclusive evidence of the transfer, treatment or storage of hazardous waste.

51. In December 1992, a second fact-finding mission was undertaken by the (interim) Secretariat of the Basel Convention and UNEP, following the request of the Somaliland authorities for assistance with regard to "poison waste matter". The second mission concluded that a container alleged to be holding hazardous waste that had been found by local people was in fact a marine mark buoy that had been brought to shore by ocean currents and tides. The buoy had no electrical equipment or any hazardous features that would pose health risks. A second object, which could not be accessed due to security reasons, was described to be identical to the one seen by the second mission, leading to the same conclusion as to its risk.

52. In 1997, the joint UNEP/Office for the Coordination of Humanitarian Affairs Environment Unit and the United Nations Coordination Unit for Somalia undertook an assessment mission based on reports that marine pollution in Somali coastal waters was being caused by maritime traffic in the Indian Ocean. The mission found traces of oil pollution along part of the coastline in the form of tar balls, which were frequently found on beaches, with estimates of 25-30 mg per square metre. This was believed to be caused by Indian Ocean maritime traffic, in particular tankers sailing to and from oil ports in the Gulf of Aden. The report noted that marine vessels normally dispose of waste at ports, but since Somali ports lack both security and services, ships dispose of their waste offshore while at sea, with annual discharges estimated at 33,000 tons. The mission also investigated a tank container in the beach between the Ige and Mareeg fishing villages, with community members in that area reporting health-related problems. Similar containers were reported at sea in the same area, as well as around the Mogadishu and Adale beaches. In its report on the assessment mission, the team stated that it was not able to identify the contents of the container and was unable to investigate the other sightings owing to security concerns that limited field access.[54]

53. In 1998, IMO led a multiagency mission to Somalia to outline a support programme to protect and develop Somalia's marine environment, its seaports and coastal areas. The mission did not find evidence of toxic waste dumping. It concluded that the lack of a functional central authority to implement marine management or control fishing operations may have led to the overexploitation of some living marine resources in Somali waters. It noted that the licensing of tuna vessels fishing in the 24 to 200 nautical mile zone off the eastern Somalia coast had been undertaken by a company based in London, and that a number of de facto "authorities" along the coast had obtained revenues from this operation. The report said that an updated estimate of the state of Somalia's fisheries, including their

[54] Available from http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docId=1109388.

abundance and state of exploitation, was needed before proposals for their management could be developed.

54. Following the tsunami in December 2004, UNEP responded to an urgent request from the Puntland Ministry of Fisheries, Ports and Marine Transport to assess potential environmental damage. In February 2005, UNEP released a report outlining the environmental risks caused by the tsunami based on a combination of limited field surveys and secondary sources of information.[55] Based on the findings of the UNEP report, an inter-agency technical fact-finding mission, which included UNEP, UNDP, WHO and FAO, was fielded to Puntland in March 2005. It investigated three sample sites along a 500 km coastal stretch between the three main populated coastal locations of Xaafuun, Bandarbeyla and Eyl where toxic waste had reportedly been uncovered by the tsunami. The mission focused exclusively on areas in "Puntland" that were potentially impacted by the tsunami, as it lacked access to any sites around Mogadishu owing to security concerns. Though no evidence of toxic waste was found by the mission, the team cited the urgent need for a more comprehensive assessment of alleged dumping of illegal toxic waste in Somalia both on land and at sea.[56]

55. In June 2010, Greenpeace claimed to have proof of the dumping of toxic waste in Somalia by European and American companies in the period from 1990 to 1997. In its report, Greenpeace cited the following sources: testimony from an Italian parliamentary commission; documentation from 1996 purportedly authorizing a waste treatment facility; evidence uncovered by an Italian prosecutor, including wiretapped conversations with alleged offenders; and warnings by the Special Representative of the Secretary-General for Somalia in 2008 of possible illegal fishing and illegal dumping in Somalia. The report included photos dated 1997 of an alleged dumping site, and estimated that thousands of barrels constituting millions of tons of toxic waste had allegedly been moved to Somalia in the 1990s.[57] While INTERPOL and some of the entities cited in that report have uncovered fractured evidence and signs of the dumping of toxins, no international investigation has ever been able to verify the dumping of illegal waste in Somalia. Access to alleged dump sites remains limited. Robust investigations would be required as the security situation improves.

## B. International frameworks for chemical and waste management

56. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal[58] entered into force on 5 May 1992, with the aim "to protect, by strict control, human health and the environment against the adverse effects resulting from the generation and management of hazardous wastes and other wastes". The mechanisms put in place to achieve the goals of the Convention involve the regulation of transboundary movement of hazardous wastes and other wastes through the prior informed consent procedures and the requirement

[55] UNEP, *After the Tsunami: Rapid Environmental Assessment* (Nairobi, 2005). Available from http://www.unep.org/tsunami/tsunami_rpt.asp.

[56] UNDP/UNEP/FAO/WHO, report of the United Nations Mission to Puntland to investigate toxic waste in the coastal areas of Somalia (Nairobi, 2005).

[57] Available from http://www.greenpeace.org/italy/Global/italy/report/2010/inquinamento/Report-The-toxic-ship.pdf.

[58] Available from http://archive.basel.int/text/documents.html.

that the management of those wastes be environmentally sound. A transboundary movement of hazardous wastes between parties to the Basel Convention can take place only upon prior written notification by the State of export to the competent authorities of the State of import or transit, and each shipment must be accompanied by a movement document. Under the Basel Convention, trade in hazardous waste is prohibited between parties and non-parties to the Convention. Somalia ratified the Convention in July 2010.

57. The 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 29 December 1972[59] (London Convention) lays down a comprehensive approach to protecting marine environments from dumping activities. The Protocol makes the precautionary approach a general obligation, requiring signatories to "protect and preserve the marine environment from all sources of pollution" and "to prevent, reduce and where practicable eliminate pollution caused by dumping or incineration at sea of wastes or other matter". Somalia is not a party to this Protocol.

58. The Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade also include elements to manage the transboundary movement or trade of chemicals and/or hazardous wastes. Somalia ratified both Conventions on 26 July 2010.

59. The Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa[60] (Bamako Convention) is a treaty among African nations banning the importation of hazardous and radioactive waste. It also seeks to minimize and control transboundary movements of hazardous wastes within the African continent, prohibits all ocean and inland water dumping or incineration of hazardous wastes, requires that disposal of wastes be conducted in an environmentally sound manner and reaffirms the precautionary principle. The Bamako Convention arose from the failure of the Basel Convention to prevent the transit of toxic waste to less developed countries. It seeks to strengthen many of the provisions set forth as well as to close loopholes in the Basel Convention. The Bamako Convention entered into force in 1998; Somalia signed in 1991 but has yet to ratify it.

60. The Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region[61] (Nairobi Convention) offers a regional legal framework and coordinates the efforts of the 10 contracting parties, including Somalia. The Convention is designed to promote environmentally sound and sustainable development as well as the sustainable management of marine and coastal systems in the region. This includes the provision of legislative guidance, the prevention and monitoring of pollution, and the provision of assistance in the form of maritime emergency response. The Nairobi Convention came into force in 1996 and was amended and adopted in April 2010. Somalia is a contracting party to the Convention.

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[59] Available from http://www.admiraltylawguide.com/conven/protodumping1996.html.

[60] Available from http://www.cetim.ch/en/documents/conv-bamako-ang.pdf.

[61] Available from http://www.unep.org/NairobiConvention/The_Convention/Nairobi_Convention_Text/index.asp.

## C. Somali framework and national context

61. Although Somalia has signed a number of applicable international and regional agreements, the Government and regional administrations lack implementation and enforcement capacity. The challenges are enormous: political instability; inadequate baseline data; absence of research and monitoring capabilities; weak technical capacity; and lack of funding. Somalia's lack of monitoring and law enforcement capabilities makes it vulnerable to criminal activities, including the illegal dumping of toxic waste.

62. The Kampala Process, an intra-Somali forum for the exchange of information on counter-piracy and policy development, facilitated by the United Nations Political Office for Somalia (UNPOS), in partnership with IMO and the United Nations Office on Drugs and Crime, has been an effective mechanism to enhance information sharing on measures to combat piracy in Somalia. The mechanism was also used by UNPOS as a platform to discuss the present report with Somali interlocutors.

# V. Observations

63. The overall evidence of illegal fishing and dumping of toxic waste remains to be fully examined. Prevailing security and resource constraints have limited a thorough examination of the evidence. In recent years, piracy off the coast of Somalia has spread across large parts of the western Indian Ocean, far beyond Somali fishing waters.[62] Piracy and armed robbery at sea off the coast of Somalia appear to have strong links to organized crime, employing increased levels of violence and using transnational financing channels.[63] More robust investigations need to be carried out by the Transitional Federal Government in collaboration with INTERPOL, EUROPOL and other crime-fighting agencies.

64. In addition to investigating past violations, it would be prudent to focus on protecting Somalia's natural resources and preventing their illegal exploitation. If Somalia's natural resource base continues to decline, it would pose a further challenge to political stability as well as much needed development initiatives.

65. The recently agreed transitional road map contains important measures that would help to address potential illegal, unreported and unregulated fishing. I call on the Transitional Federal Government, working in tandem with the Transitional Federal Parliament, to declare an exclusive economic zone off the Somali coast in accordance with the United Nations Convention on the Law of the Sea, and as agreed in the road map. Such a proclamation, together with the adoption of enabling legislation, would clarify the legal basis for the protection of the sovereign rights of Somalia with respect to natural resources and its jurisdiction over the marine environment.

66. The United Nations, together with the African Union and the African Union Mission in Somalia, is working hard to support the Government of Somalia to reform its security sector and build up an adequate police force. Discussions are

[62] According to the Indian Ocean Tuna Commission, between 2008 and 2009, of all reports of piracy off the coast of Somalia, only 13 attacks and four successful hijackings were carried out against fishing vessels.

[63] Interviews of convicted pirates carried out by the United Nations Office on Drugs and Crime.

ongoing on identifying appropriate coastguard functions. The limited capacity of the Transitional Federal Government to implement the international agreements on resource management and environmental protection needs to be expanded.

67. Until such time as Somalia develops a coastal monitoring capacity, the mandates of the international naval efforts to counter piracy off the coast of Somalia could be expanded to include monitoring and deterrence of illegal fishing and the illegal dumping of waste. This could be done in conjunction with the Transitional Federal Government and regional authorities.

68. It is equally important to address the conditions that enable illegal charcoal trading, which has put livelihoods at risk through the depletion of the primary forest cover in southern Somalia, thus exacerbating the humanitarian crisis. Given that trading in charcoal from the southern and central areas of Somalia, which are currently controlled by Al-Shabaab, could be interpreted as violating the Somalia sanctions regime, the Sanctions Committee pursuant to resolutions 751 (1992) and 1907 (2009) may consider explicitly banning the export of charcoal via Kismaayo and other ports controlled by Al-Shabaab.

69. The Transitional Federal Government needs to take steps to enhance maritime security. Efforts to encourage the development of alternative livelihoods in the maritime environments could also lead to improved maritime security. It should consider acceding to the various conventions under the purview of IMO, including the International Convention for the Safety of Life at Sea, the International Convention for the Prevention of Pollution From Ships and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) and its 1996 Protocol.

70. Regional cooperation on the management of transboundary fish species and on ecosystem management will help Somalia develop its fisheries sector and ensure the sustainable utilization of its resources. I encourage Somalia to fully participate and engage in the Indian Ocean Tuna Commission and in other regional fisheries bodies, such as the Southwest Indian Ocean Fisheries Commission, of which it is a member.

71. As a number of earlier assessments have shown, Somalia needs the appropriate legal frameworks to address all aspects of maritime law enforcement within its waters, taking into account relevant security and economic capacity concerns. Similarly, a legal framework is necessary to enable the development of a viable, legitimate and sustainable Somali fishing industry, with appropriate structures for issuing licences, as well as collecting and allocating revenues. The authorities should develop quick-impact employment initiatives in the sector and support the long-term recovery of Somalia's fishing industry and its natural resources.

72. The United Nations would assist the Transitional Federal Government and regional authorities, as requested, in creating and establishing marine protected areas as well as helping devise related conservation and management measures. Member States need to strengthen efforts to prevent illegal, unreported and unregulated fishing. In this regard, it would be particularly helpful to encourage the entry into force of the Port State Measures Agreement and strengthen the national fishing vessel registries.

73. Given the strategic importance of Somalia's natural resource base for its development efforts, I intend to recommend a strategic environmental assessment

for Somalia to be carried out by the United Nations, together with the relevant organizations, in partnership with the Transitional Federal Government.

74. I urge Member States to heed the call of the Security Council to investigate allegations of illegal fishing and illegal dumping, including of toxic substances, with a view to prosecuting such offences when committed by persons or entities under their jurisdiction. I intend to include updates on these issues in my future reports relating to piracy off the coast of Somalia.

75. The challenges to Somalia's natural resources will have to be addressed simultaneously at the local, regional and national levels. The Transitional Federal Government, together with the Transitional Federal Parliament, will need to work collaboratively with the regional authorities of Puntland, Somaliland and Galmudug to meet these challenges and take action on the above observations. I urge all Somalis to fully utilize the Kampala Process dialogue forum for such collaboration. My Special Representative for Somalia is prepared to support such a dialogue.

United Nations S/2011/662

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# Report of the Secretary-General pursuant to Security Council resolution 1950 (2010)

## I. Introduction

1. The present report is submitted pursuant to paragraph 22 of Security Council resolution 1950 (2010) of 23 November 2010, in which the Council requested me to report on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. The report updates the assessment contained in my report of 27 October 2010 (S/2010/556), submitted pursuant to Security Council resolution 1897 (2009), and is based on information received as at 3 October 2011.

2. As in my previous report, the following assessment and recommendations are based on information provided to me by Member States and regional organizations in conformity with paragraph 21 of resolution 1950 (2010). Information was provided by Australia, Bosnia and Herzegovina, Bulgaria, Denmark, Germany, Hungary, Italy, Japan, Panama, Portugal, Singapore, Turkey, the Common Market for Eastern and Southern Africa (COMESA), the European Union and the North Atlantic Treaty Organization (NATO). Consultations have also been undertaken within the United Nations system and with the International Criminal Police Organization (INTERPOL).

3. The present report considers the situation of piracy and examines the political, legal and operational activities that have been undertaken by Member States, regional organizations and the United Nations and its partners in the fight against piracy and armed robbery at sea off the coast of Somalia, and concludes with observations.

## II. Main developments on piracy off the coast of Somalia

4. Reports by the International Maritime Organization (IMO) indicate that in the first nine months of 2011 there were 185 attacks against ships in the waters off the coast of Somalia, resulting in the hijacking of 28 ships. The majority of attacks leading to vessels being hijacked during 2011 took place in the western Indian Ocean. This compares with 164 reported attacks and 37 ships hijacked during the same period in 2010. As of early October 2011, 316 people and 15 vessels were being held hostage. This compares with 389 people and 18 vessels held in October 2010.

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5. The reduction was achieved through a combination of actions by naval forces and the improved implementation of the IMO guidance and industry-developed Best Management Practices for Protection against Somalia-Based Piracy. That included better application of self-protection measures and situational awareness by merchant ships. Naval forces reported that in the last year, 75 per cent of attacks were warded off by military intervention, while this year, merchant ships achieved the same success rate by taking robust action, including through the use of fortified safe rooms.

6. Due to the monsoon period, the incidence of attacks, which spiked in the beginning of the year, was reduced in the Somali Basin and western Indian Ocean, but increased in the southern Red Sea/Bab el-Mandab area and in the Arabian Sea, closer to the Omani coast. With the end of the monsoon period, however, the number of attacks in the Somali Basin and western Indian Ocean is expected to increase.

7. The military strategy of using naval presence and retaliatory force, combined with naval action close to the eastern coast of Somalia to contain and disrupt the activities of pirate action groups, has proved effective in the Gulf of Aden. However, it has led to a geographical shift of pirate operations into the Red Sea, the Somali Basin and further off the coast of Somalia into the Indian Ocean. Pirates now operate in the high seas at distances of up to 1,750 nautical miles, and the number of pirate attacks continues to increase. The geographic spread of pirate activities has put increased strain on scarce naval forces. In addition, the perpetrators have adjusted their methods to deter recovery by the navies through the greater use of captured ships and dhows as "mother ships", often retaining the captured crews on board as human shields.

8. This development has amplified the threat of piracy to all ships transiting the Indian Ocean, which has in turn increased insurance premiums paid by the maritime industry. Together with the ever higher ransoms paid, and time-consuming route changes, shipping costs are on the rise, with detrimental effects to the global economy.

9. Somali piracy has evolved into a sophisticated organized crime. Pirate gangs' increasing income from higher ransoms has strengthened their strike capability. In 2011, using better and heavier weapons, pirates have targeted more oil tankers and sailing vessels. Violence against seafarers has also increased. In Somalia, pirate operations are now reported along the entire east coast of the country, including from areas controlled by Al-Shabaab.

10. The plight of the 316 hostages currently held by pirates on Somali territory, mainly in "Puntland", but also in "Galmudug", is of particular concern. They include seafarers from all over the world, as well as recreational sailors from Western Europe. Authorities in these regions have provided vital assistance in securing the release of hostages. This exercise is typically carried out through a combination of efforts by shipping companies, other private actors and Governments. In some cases, the United Nations has taken on a greater role, including in situations where a ship is released while some crew members remain in custody, or in cases of hostages with repatriation complications.

## III. Efforts by authorities

11. In accordance with Security Council resolution 1950 (2010), the authorizations contained in resolutions 1846 (2008), 1851 (2008) and 1897 (2009) related to counter-piracy activity in the territorial waters off the coast of Somalia and in Somalia were extended. As at 3 October 2011, no additional Member State or regional organization had transmitted advance notification of its cooperation with the Transitional Federal Government of Somalia in the fight against piracy and armed robbery at sea off the coast of Somalia.

12. The Transitional Federal Government of Somalia has stated its commitment to eradicate piracy and agreed to a national counter-piracy strategy, as stipulated in the Mogadishu road map of September 2011. The Transitional Federal Government, "Puntland", and "Galmudug" agreed to work together to develop maritime security, counter-piracy policy and legislation, and protection measures regarding Somali natural resources. Activities to facilitate these goals include the establishment of a Somalia exclusive economic zone; the appointment of a Transitional Federal Government counter-piracy coordinator under a designated ministry; the establishment of a maritime law enforcement capacity; the adoption of an agreed and coordinated maritime security strategy; initiation of development programmes for anti-piracy community engagement, linked to coastal economic projects; capacity-building within the criminal justice sector, and enactment of anti-piracy legislation. The Transitional Federal Government is exploring commercial options to patrol Somali waters.

13. The "Puntland" anti-piracy task force rendered assistance to a number of stranded crews during the reporting period. The "Puntland" authorities have outlined their anti-piracy policy and are seeking international assistance to develop a coastguard capability and coastal monitoring stations.

14. Recently, "Galmudug" has become one of the most prolific pirate bases. The "Galmudug" counter-piracy task force has expressed its intention to develop a maritime police unit both on and off shore.

15. The Kampala Process, which includes the Transitional Federal Government, "Somaliland", "Puntland" and "Galmudug", has become an effective tool to facilitate the joint development of counter-piracy plans for Somalia. The Transitional Federal Government and regional authorities discussed how best to implement maritime legislation and strengthen Somali capacity to prosecute suspected pirates during meetings on 16 February 2011 in London and on 26 May in Nairobi. More recently, the Kampala Process has facilitated agreement among the Transitional Federal Government and regional authorities to formally declare Somalia's exclusive economic zone, as promulgated in the road map. The Transitional Federal Government and the three regions are currently working to establish local counter-piracy focal point offices, for which international funding is sought. Somali authorities have stressed that only a comprehensive approach of the Transitional Federal Government and the regions that addresses instability, lack of governance and law enforcement would be successful in eliminating piracy in Somalia.

# IV. International cooperation to address piracy off the coast of Somalia

16. On 3 February 2011, together with the Secretary-General of IMO, the Executive Directors of the World Food Programme (WFP) and the United Nations Office on Drugs and Crime (UNODC), as well as senior representatives of the maritime industry, I helped to launch the anti-piracy action plan in support of the 2011 World Maritime Day theme "Piracy: orchestrating the response". The plan aims at strengthening the focus on anti-piracy endeavours of all kinds and at facilitating a broader global effort. Its prime objectives aim at increasing pressure at the political level to secure the release of all hostages being held by pirates; review, improve and promote IMO guidelines; promote greater levels of support and coordination with navies; promote coordination and cooperation between States, regions, organizations and industry; assist in capacity-building in piracy-infested regions of the world, and provide care for those attacked or hijacked by pirates and for their families.

17. In 2011, IMO worked to promote further cooperation between and among States, regions and organizations through information sharing; coordination of military-civil efforts; and development and implementation of regional initiatives, such as the IMO-led Djibouti Code of Conduct.

18. The International Contact Group on Somalia, on 3 June 2011 in Kampala, recognized the need to assist Somalia and the region in building capacity to fight piracy through the Kampala Process, and to establish land-based employment and income generation projects that could contribute to a durable eradication of piracy and other illegal activities. On 30 September 2011 in Copenhagen, the Contact Group acknowledged that a solution to piracy required a comprehensive approach that would address the political, security and socio-economic root causes in Somalia and the protection of maritime resources. Participants also urged the Transitional Federal Institutions to adopt counter-piracy legislation and consider declaring an exclusive economic zone.

## A. Contact Group on Piracy off the Coast of Somalia

19. Pursuant to Security Council resolution 1851 (2008), the Contact Group on Piracy off the Coast of Somalia was established on 14 January 2009 to facilitate discussions and the coordination of actions among States and organizations aimed at countering piracy off the coast of Somalia. As at October 2011, the Contact Group had over 66 participants, comprised of Member States and international, regional and non-governmental organizations.

20. The Contact Group on Piracy off the Coast of Somalia has continued to ensure close international coordination in the fight against piracy and armed robbery, meeting under the chairmanships of the Republic of Korea (November 2010), Turkey (March 2011) and Singapore (July 2011). Working closely with the Transitional Federal Government and other Somali regional administrations, the Contact Group continues to bring international stakeholders to deliver comprehensive and decisive action against this global threat. The four working groups of the Contact Group met on a regular basis over the reporting period.

21. Under the chairmanship of the United Kingdom of Great Britain and Northern Ireland and supported by IMO, Working Group 1, on operational coordination and regional capacity-building, met during the reporting period in October 2010, February 2011 and June 2011. It received regular input from the Chairs of the Shared Awareness and Deconfliction mechanism, highlighting for its membership key military capability shortfalls, particularly Maritime Patrol Aircraft and oil replenishment tankers. Working Group 1 also continues to provide a platform for dialogue among military contributors. The Contact Group on Piracy off the Coast of Somalia endorsed the priority needs identified by Working Group 1, including support for a penal/judicial capacity-building programme in Somalia and the region; the implementation of the Djibouti Code of Conduct; capacity-building of prioritized counter-piracy and maritime security capabilities of regional coastguard and maritime police and military forces, in accordance with the regional plan of action on piracy and maritime security in the Eastern and Southern Africa and Indian Ocean region; the establishment of an exclusive economic zone for Somalia; and comprehensive cross-sector counter-piracy and maritime security action in Somalia, facilitated by the United Nations, especially through the Kampala Process and the United Nations rule of law and security sector reform programmes.

22. Working Group 2, convened by Denmark, focuses on the legal aspects of counter-piracy, with the support of UNODC. It met four times during the reporting period. It has further strengthened the common approach to and understanding of the legal issues through information exchange on ongoing judicial activities, including specific counter-piracy court cases. The Working Group provided additional legal documents to the legal tool box, which serves as guidance to the Contact Group on Piracy off the Coast of Somalia, Member States and organizations on all legal aspects of counter-piracy. Working Group 2 has discussed how to ensure the effective prosecution of suspected pirates, including through analysis of the options put forward by my former Special Adviser on legal issues related to piracy off the coast of Somalia, Jack Lang. At present, more than 1,000 pirates are either serving or awaiting their sentence in the national systems of 20 States.

23. Working Group 2 developed a legal framework for transferring sentenced pirates from prosecuting States for incarceration in Somalia. This work led to the conclusion of respective agreements between Seychelles and Somalia, including the administrations of "Puntland" and "Somaliland". The Working Group is supporting efforts to put the framework into practice, which also depends on the continuous support from the international community for the construction of prisons with international standards in Somalia and the close cooperation of the Somali authorities.

24. Working Group 3 addresses the strengthening of shipping self-awareness and other capabilities, and is convened by the United States, with the support of IMO. During the reporting period, the Working Group met twice, and worked by means of correspondence through two intersessional working groups on guidance on the use of private armed security providers and on a framework for flag State guidance on the use of an IMO instrument to ensure compliance with best practices to avoid, evade and defend against piracy. Furthermore, the industry-developed Best Management Practices were updated and booklets were widely distributed.

25. Egypt convened Working Group 4, which seeks to improve diplomatic and public information efforts on all aspects of piracy. The Working Group met twice

during the reporting period, and worked to improve coordination of different media messages delivered under the auspices of the communication strategy of the Contact Group on Piracy off the Coast of Somalia. It also monitored the progress of a communication project carried out in Somali communities, which was facilitated by the United Nations Political Office for Somalia (UNPOS) and funded by the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia.

26. At its meeting on 14 July 2011, the Contact Group established Working Group 5, on financial flows. Under the chairmanship of Italy, the new Working Group intends to coordinate efforts to track and disrupt illicit financial flows, highlighting the role of those funding piracy operations and others involved indirectly in the financing of piracy. Preparatory meetings took place in the United States, the Republic of Korea and Italy.

27. The United Nations continued to support the work of the Contact Group and its working groups through technical expertise, coordination, and the facilitation of dialogue among its members.

## B. Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia

28. Launched in early 2010, the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia has consolidated and expanded its activities. The Trust Fund has supported projects ranging from renovating overcrowded prisons and building up capacity in the region to prosecute and incarcerate convicted pirates to campaigning against the appeal of piracy among the Somali youth. At a Dubai donors' conference in April 2011, co-hosted by the United Arab Emirates, the Trust Fund received a new financial boost of about $4.6 million in fresh pledges, including for the first time from the private sector. These contributions are important, and I appeal once again to the international community, including the shipping industry, to continue to support the Trust Fund.

29. As at 4 October 2011, the Trust Fund had received a total of about $8.3 million since its establishment. The Board of the Trust Fund recommended the disbursement of about $7 million to fund a total of 14 projects. The projects have so far mainly supported law enforcement, prosecution and detention-related activities.

## C. Regional cooperation

30. Since my last report, two more States have signed the IMO-led Djibouti Code of Conduct, namely, Eritrea, in November 2010, and the United Arab Emirates, in April 2011. This brings the total number of signatories to 18, including Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Jordan, Kenya, Madagascar, Maldives, Mauritius, Oman, Saudi Arabia, Seychelles, Somalia, Sudan, United Arab Emirates, United Republic of Tanzania and Yemen.

31. Progress was made on all aspects of the implementation of the Djibouti Code of Conduct, which is largely funded and administered through IMO. IMO has delivered training on maritime situational awareness to staff of the information-sharing centres and conducted regional workshops. A regional programme for operational maritime law enforcement training is being developed in partnership with NATO and the

European Union. The information-sharing centres became operational in early 2011, and are now linked to all 18 Djibouti Code signatory States through the web-based information exchange network. In Tanzania, maritime situational awareness is enhanced through the upgrading of the coastal radar and automatic identification system, linked with the Tanzanian navy and the Dar es Salaam maritime rescue coordination centre. IMO, together with UNODC, and with the participation of the Office of Legal Affairs of the United Nations Secretariat, conducted initial workshops to develop a multiagency approach to maritime law enforcement in Djibouti and Nairobi as part of a larger programme to foster a cross-agency environment necessary to deliver effective maritime security.

32. The African Union, COMESA, the East African Community (EAC), the Economic Community for West African States (ECOWAS), the Intergovernmental Agency on Development (IGAD), the Indian Ocean Commission, and the Southern African Development Community (SADC) continued to keep matters related to piracy on their agenda.

33. Ministers from the Eastern and Southern Africa and Indian Ocean region adopted a regional strategy and a regional plan of action for maritime security at the second regional ministerial meeting on piracy and maritime security in the Eastern and Southern Africa and Indian Ocean region, held in Mauritius in October 2010. The strategy provides for a regional framework to prevent and combat piracy, and promote maritime security through a three-pillar approach. This would involve: (1) the development and implementation of a Somalia inland action plan to counter and prevent piracy; (2) encouraging States in the region to prosecute pirates with the financial and technical support of the international community; and (3) strengthening regional States' capacities to secure their maritime zones. The regional plan of action also includes information exchange, cooperation, joint action and capacity-building measures. It was decided that an interregional coordination committee consisting of COMESA, EAC, IGAD, the Indian Ocean Commission, SADC and the European Union would serve as the secretariat of the regional coordination mechanism to support the implementation of the plan.

34. SADC defence ministers held an extraordinary meeting in Pretoria, on 25 July 2011, at which a regional anti-piracy strategy was adopted and a task force formed comprising of navy commanders from Tanzania, Mozambique and South Africa. The task force is expected to establish a zonal centre in South Africa to coordinate information and intelligence on piracy. SADC countries were encouraged to strengthen regional and domestic legal frameworks for the arrest, the prosecution and the imprisonment or the repatriation of pirates. The importance of these measures, together with sharing of intelligence and the ratification of relevant international maritime treaties, was emphasized, given that the waters of the SADC region fall outside of the international military maritime operations being conducted off the Horn of Africa.

35. At a meeting held in Dar es Salaam on 10 December 2010, East African regional States supported the creation of regional post-release joint investigation teams. Through collaboration between the South African police and INTERPOL, a vessel released by Somali pirates in April 2011 was jointly investigated, leading to the recovery of a large quantity of evidence that is still being analysed.

36. On 18 and 19 April 2011, the United Arab Emirates, together with a private port company, held a high-level international conference in Dubai that highlighted

the importance of public-private partnerships in the fight against piracy. Participants agreed that piracy could be fought only through a comprehensive strategy that also took into account the root causes and the serious humanitarian and economic aspects of maritime piracy.

37. The Government of Seychelles hosted a high-level international piracy conference on 7 and 8 September, which focused on better implementation of the laws of the sea, political support from international organizations and national Governments, and capacity-building in coastal States. The Government of Seychelles also announced that it will host a maritime analysis and operation centre that will also be focused on analysis of illegal activities.

38. On 14 September, representatives from 47 States and organizations involved in counter-piracy operations in the Indian Ocean met at NATO headquarters to discuss ways to enhance synergies between their respective efforts in the Indian Ocean.

## D. Naval activities off the coast of Somalia

39. During the reporting period, the three multinational maritime coalition forces contributing to the fight against piracy off the coast of Somalia maintained their presence in the region. In addition, several Member States independently deployed naval military assets in the region as part of the international counter-piracy effort, some of which were coordinated with the multinational coalitions. The maritime coalitions also carry out a coordinating role for forces operating in the Gulf of Aden and the Somalia Basin.

### European Union

40. The first naval operation of the European Union, Atalanta, continues to play an instrumental role in the efforts of the international community to deter and fight piracy and armed robbery at sea off the coast of Somalia. As part of the European Union's global strategy for the Horn of Africa, the Council of the European Union extended the mandate of the operation for another two years in December 2010. In the reporting period, European Union countries and non-European Union-contributing States deployed naval assets comprising more than 32 vessels from 11 States and on average 4 aircraft and 1,800 personnel as part of the operation.

41. An important focus of Atalanta is the protection of WFP vessels, of which more than 100 have been escorted so far, as well as the shipping of the United Nations Support Office for the African Union Mission in Somalia (UNSOA). In addition, Atalanta has disrupted numerous pirate attacks and transferred one case for prosecution in Seychelles. Furthermore, the European Union signed a transfer agreement on suspected pirates with Mauritius on 14 July 2011.

42. The European Union is also involved in longer term efforts to counter piracy through two main tracks. It supports the implementation of the regional strategy adopted at the October 2010 Eastern and Southern Africa and Indian Ocean region ministerial conference through a 25 million-euro project. It also plans to provide assistance to enable countries in the region to control their territorial waters and their exclusive economic zones.

**North Atlantic Treaty Organization**

43. NATO is contributing, through Operation Ocean Shield, to the efforts of the international community to fight piracy off the Somali coast. The initiative comprises up to five NATO vessels that patrol the waters off the coast of the Horn of Africa and along the Internationally Recommended Transit Corridor. Operation Ocean Shield is authorized to escort United Nations-chartered vessels up to the harbour entrance of Mogadishu. The NATO operation routinely provides at least one third of warships within the Internationally Recommended Transit Corridor in the Gulf of Aden, for which NATO has been acting as coordinator since June 2011.

44. The North Atlantic Council recently conducted a strategic review of Operation Ocean Shield and concluded that its counter-piracy role will continue to focus on areas in which it possesses a comparative advantage. In addition, NATO has agreed to pursue regional capacity-building within its means and capabilities.

**Combined Maritime Forces**

45. As noted in my previous report (S/2010/556), the Combined Maritime Forces are a United States-led international naval coalition of 25 nations that conducts integrated and coordinated operations in the Gulf of Aden, the Gulf of Oman, the Arabian Sea, the Arabian Gulf, the Red Sea and parts of the Indian Ocean. It is made up of three distinct Combined Task Forces (CTF): CTF-150, CTF-151 and CTF-152. The Forces conduct counter-piracy operations through CTF-151, while CTF-150 and CTF-152 conduct maritime security operations and aid in the building of regional capacity in the area of operations.

46. During the reporting period, CTF-151 successfully deterred multiple pirate attacks, rescued a motor vessel with pirates aboard, responded to emergency calls from vessels in distress and seized large quantities of contraband, including weapons, drugs and related materials. In addition, CTF-151 played a critical role in encouraging and implementing tactical "de-confliction" between all ships and Member States operating in the Gulf of Aden. During the reporting period, CTF-151 served as coordinator for the Internationally Recommended Transit Corridor and currently serves as the Somali Basin coordinator.

**Additional efforts by Member States**

47. The efforts made by the multinational coalition forces are complemented by individual activities conducted by Member States off the coast of Somalia. China, India, the Islamic Republic of Iran, Japan, Kenya, Malaysia, Saudi Arabia, South Africa and Yemen have deployed naval ships and/or aircraft to combat piracy in the region. In varying degrees of coordination with the coalition forces, their vessels have escorted hundreds of merchant ships; provided close protection for designated merchant vessels, including for vessels released by pirates; conducted rescue operations for vessels in distress; and confiscated large quantities of weapons and other contraband. China, India and Japan have also agreed to carry out more effective coordination by establishing a convoy coordination working group as part of the Shared Awareness and Deconfliction mechanism.

**Coordination of military and civil-military initiatives**

48. There are several mechanisms in place to coordinate the activities of the military naval assets off the coast of Somalia. During the reporting period, the Shared Awareness and Deconfliction mechanism, chaired by the Combined Maritime Forces, NATO and the European Union Naval Force, continued to improve military coordination. At the group's last meeting, on 20 September 2011, more than 27 countries and 14 organizations, including maritime security and coordination agencies, were represented, together with three coalitions and representatives of industry.

49. Civil-military coordination and full implementation of IMO guidance and the Best Management Practices are the key elements of the strategy to protect global maritime trade in the high-risk area. The primary mechanism for protecting merchant vessels transiting through the Gulf of Aden remains the collaboration between industry and the naval presence through the use of the Internationally Recommended Transit Corridor, as endorsed by IMO in July 2009. This enables pre-registered commercial traffic to transit through high-risk seas at appropriate times, protected by the naval assets patrolling in the region and convoyed by independent deployers like China, India, Japan and Russia. In the wider Indian Ocean, situational awareness and avoidance of pirate action groups remains key. Naval forces regularly promulgate threat-related information to ships registered with the Maritime Security Centre (Horn of Africa) and reporting to UK Maritime Trade Operations in Dubai.

50. Beyond those efforts, there is a need to expand and formalize the mechanism for investigative and prosecutorial purposes. Information obtained by military assets at sea should be made available to various law enforcement and judicial bodies, such as the Monitoring Group on Somalia and Eritrea established pursuant to Security Council resolution 1916 (2010) and INTERPOL. IMO has recently issued guidelines to assist in the investigation of the crimes of piracy and armed robbery against ships (MSC.1/Circ.1404) as a complement to the existing IMO Code of Practice on the same subject.

## E. Assistance provided to the World Food Programme and the United Nations Support Office for the African Union Mission in Somalia

51. Safe delivery of humanitarian assistance to the Somali region is critical. At present, 14 million people are affected by drought in the Horn of Africa, including some 3.7 million in Somalia and almost 800,000 refugees who are seeking assistance in other countries of the region. Ensuring safe and efficient sea transport is a priority for WFP to provide life-saving humanitarian aid to vulnerable populations in Somalia and the broader region. European Union Naval Force (EU NAVFOR) Operation Atalanta was launched in support of Security Council resolutions 1814 (2008), 1816 (2008), 1838 (2008) and 1846 (2008). Its mandate is to contribute to the protection of WFP vessels delivering food aid to vulnerable populations in Somalia, of UNSOA delivering materials to the African Union Mission in Somalia (AMISOM); and of vulnerable vessels sailing in the Gulf of Aden and off the Somali coast.

52. Since the deployment of Atalanta, not a single ship carrying WFP food has been attacked by pirates. However, there were two unsuccessful attempts on AMISOM supplies. During the reporting period, about 62,000 tons of WFP assistance was safely escorted into Somalia through Mogadishu, Boosaaso and Berbera ports. WFP works closely with EU NAVFOR to secure agreements with flag States to ensure the embarkation of a vessel protection detachments in order to improve the protection provided by EU NAVFOR through operation ATALANTA. Following an agreement between NATO and the United Nations, training for AMISOM vessel protection detachments will start shortly. The use of vessel protection detachments on certain ships that are dedicated to provide supplies to AMISOM will be done on a case-by-case basis.

## F. Further efforts to safeguard international navigation off the coast of Somalia

53. The IMO Maritime Safety Committee, at its eighty-eighth session in late 2010, approved guidance for Company Security Officers to help prepare a company and crew for the contingency of hijack by pirates in the western Indian Ocean and the Gulf of Aden (MSC.1/Circ.1390). In May 2011, the Maritime Safety Committee, at its eighty-ninth session, adopted a resolution on the implementation of Best Management Practices guidance, strongly urging all parties concerned to take action to ensure better implementation of these self-protection measures (resolution MSC.324(89)). In addition to document MSC.1/Circ.1404, it also provided interim guidance on the use of privately contracted armed security personnel on board ships in areas of high risk of piracy to shipowners, ship operators and shipmasters (MSC.1/Circ.1405), as well as interim recommendations for flag States (MSC.1/Circ.1406).

54. IMO continues to assist in the further development of these guidelines through both the Maritime Safety Committee and the Facilitation Committee. An intersessional meeting of the Maritime Security and Piracy Working Group held from 13 to 15 September, as authorized by the Maritime Safety Committee, reviewed the interim guidance developed at the eighty-ninth session, the Maritime Safety Committee, and issued revised interim recommendations for port and coastal States, shipowners, ship operators and ship masters, and flag States, regarding the use of privately contracted armed security personnel on board ships in the high-risk area. This guidance does not alter the IMO position on the use of privately contracted armed security personnel, which remains that it is for each flag State, individually, to decide whether or not armed security personnel should be authorized for use on board ships flying their flag. If a flag State decides to permit this practice, it is up to that State to determine the conditions under which authorization will be granted.

55. In a letter addressed to me, the International Chamber of Shipping lamented the lack of effectiveness of the use of private armed security on ships. It put forward a proposal to establish a United Nations force of armed military guards that could be deployed on merchant ships.

56. WFP has been working closely with IMO and EU NAVFOR to improve the safety of the vessels used for our Somalia operations. Initiatives have focussed on deterrent measures such as the inclusion of vessel protection detachment in contract

provisions, and seeking companies operating vessels under flag States with which the EU NAVFOR has secured vessel protection detachment agreements. WFP has improved travel time by better organizing port schedules and the long-term charter of a modern vessel.

## G. Legal issues, including human rights considerations

### Report of the Special Adviser to the Secretary-General on legal issues related to piracy off the coast of Somalia

57. At the conclusion of his mandate, my Special Adviser on legal issues related to piracy off the coast of Somalia put forth in his report (S/2011/30, annex) 25 proposals on measures to be taken to address piracy off the coast of Somalia. The proposals touched on a number of legal, political and socio-economic issues. The Security Council, in its resolution 1976 (2011), welcomed the report and noted with appreciation the conclusions and proposals set forth therein.

### Prosecution of suspected pirates

58. During the reporting period, there was a notable increase in prosecutions of suspected pirates. As at 3 October 2011, over 1,000 suspected pirates had been prosecuted or were awaiting prosecution in 20 States: Belgium; Comoros; France; Germany; India; Japan; Kenya; Madagascar; Malaysia; Maldives; Netherlands; Oman; Seychelles; Somalia; Republic of Korea; Spain; United Arab Emirates; United Republic of Tanzania; United States and Yemen. The prosecutions are a result of increased apprehension of suspected pirates with improved gathering and preservation of evidence, enhanced information-sharing, strengthened legislative frameworks in some States, and increased political willingness to undertake prosecutions.

59. However, a large number of suspected pirates are still not prosecuted for a variety of legal, practical and political reasons, including the successful evasion of naval forces, insufficiency of evidence to prosecute, and the failure to identify a jurisdiction able and willing to prosecute. A new enforcement chapter in the fourth edition of the Best Management Practices directives for seafarers and owners of vessels providing guidance on post-incident evidence preservation and collection. INTERPOL has set up a mechanism to provide real time advice to owners of vessels and private industry in this regard.

### Capacity-building

60. IMO, INTERPOL, the Office of Legal Affairs, the United Nations Development Programme (UNDP), UNODC and others have undertaken a range of activities to assist States in developing their capacity to apprehend, detain and prosecute suspected pirates in full respect of international norms and standards.

61. Based on the support of the Contact Group on Piracy off the Coast of Somalia at its ninth plenary session and the resolutions adopted at both the INTERPOL African and European regional conferences, INTERPOL Washington is developing a maritime piracy global database that will integrate a diverse collection of maritime piracy information and intelligence to support ongoing maritime piracy investigations and prosecution by Member States of criminal networks involved in

piracy off the coast of Somalia. The database will be transferred to the INTERPOL General Secretariat in 2012 and will be accessible to the international law enforcement community.

62. UNDP has continued to provide assistance and capacity-building to the police in Somalia. A total of 96 officers of the Criminal Investigation Department in "Puntland" and "Somaliland" were trained during the reporting period. With the aim of strengthening the capacity of the Somali judiciary to prosecute suspected pirates in accordance with international standards, a total of 32 judges and prosecutors graduated through UNDP-accredited training programmes in Hargeysa, Mogadishu and Boosaaso. UNDP equipped the Assize Court in Boosaaso, which is conducting the majority of piracy trials in Somalia. The UNDP legal assistance programme, with the support of the Trust Fund, was expanded to all regions in "Somaliland", "Puntland" and Transitional Federal Government-controlled areas in Mogadishu, providing free legal advice and representation to more than 6,000 people and representing 107 suspected pirates during the reporting period. The construction of Gardo Prison is about to be completed and is expected to be handed over to the "Puntland" authorities by the end of 2011.

63. During the reporting period, efforts at integrating regional countries of UNODC programmes were expanded. UNODC continued to support the counter-piracy programme in Kenya through increased capacity-building of the judiciary and prosecutors, law enforcement, and refurbishment and training in Kenyan prisons, which hold 143 suspected or convicted pirates. A three-week criminal investigator course was organized in Nairobi, as was a week-long course at the UNODC-refurbished Shimo La Tewa Prison, in Mombasa. In addition, UNODC has expanded its support to Seychelles, as a result of the agreement of the Government to play a larger role in piracy prosecutions, and is completing the construction of a 60-person prison block. Efforts at expanding the capacity to detain pirates within Somalia have been moving apace. A major accomplishment in this regard is the new Hargeysa prison, which opened towards the end of 2010. In Boosaaso, UNODC refurbished a prison through the Trust Fund.

64. With the aim of eventually hosting piracy trials in Somalia, UNODC has organized a training course for "Somaliland" and "Puntland" prosecutors. UNODC continued to facilitate the repatriation to Somalia of convicted pirates who have served their sentences in regional countries, as well as illegal immigrant Somalis acquitted of piracy charges. In late 2010, UNODC helped repatriate 17 Somalis acquitted of piracy from Nairobi to "Puntland". More recently, 10 Somali men were repatriated to "Puntland" after completing their sentences imposed for piracy convictions in Kenya.

**National legislation on piracy**

65. The Office of Legal Affairs, IMO and UNODC prepared guidance documents on the elements of national legislation on piracy, focusing on the implementation of international legal instruments under their respective competences that were issued by the IMO Legal Committee in May 2011. A compilation of national legislation on piracy provided by States to the United Nations is available on the Office of Legal Affairs website.

**Prosecution issues**

66. Article 100 of the United Nations Convention on the Law of the Sea requires all States to cooperate to the fullest possible extent in the fight against piracy. During the period under consideration, a number of States entered into arrangements to facilitate the prosecution of suspected pirates.

67. Agreements on the transfer of convicted pirates were signed between the Government of Seychelles and the Transitional Federal Government, "Puntland" and "Somaliland". These agreements were enabled by the efforts of Working Group 2 of the Contact Group on Piracy off the Coast of Somalia and will allow Seychelles to move convicted Somali pirates back to "Puntland" and "Somaliland" to serve their sentences. Since the agreements were signed, "Somaliland" has indicated that it wishes to give the matter more consideration before proceeding. In the case of "Puntland", the first transfers may take place once UNODC has completed the rehabilitation of Boosaaso Central Prison.

68. The European Union and Mauritius signed an agreement for the prosecution of piracy suspects detained by EU NAVFOR. UNODC developed a joint programme with the European Union to support the prosecutions.

69. UNODC received reports that 60 convicted pirates were released from prison in "Somaliland" following the payment of bribes to court and prison officials. Statements by "Somaliland" authorities to visiting national delegations seem to confirm that and at least one senior judge and an official from the prisons have been reported to have been removed from their posts.

70. During the reporting period, the Security Council and the Contact Group considered additional mechanisms for the prosecution of suspected pirates. My Special Adviser, in his report, proposed to strengthen the rule of law in Somalia by establishing a court system comprising a specialized court in "Puntland", a specialized court in "Somaliland" and an extraterritorial Somali specialized court. As requested by the Security Council, in its resolution 1976 (2011), I submitted my report (S/2011/360) on 15 June 2011, on the modalities of such prosecution mechanisms, including on the participation of international personnel and on other international support and assistance, taking into account the work of the Contact Group on Piracy off the Coast of Somalia and in consultation with concerned regional States.

**Protection of children**

71. The Monitoring and Reporting Mechanism on grave violations against children in armed conflict, implemented in Somalia pursuant to Security Council resolution 1612 (2005), continued to document information on children involved in piracy. In January and February 2010, 10 cases of recruitment of children into the pirate groups that operate off the "Puntland" coast were documented. In addition, during 2010, several cases were documented of children escaping from Al-Shabaab and joining the pirate groups in "Puntland". In 2011, the United Nations received 14 verified cases of child rights violations, of which two cases were reported from "Puntland" and 12 cases from South Central zone. Nine of the reported cases were of rape and five of illegal abduction. All nine cases of rape were documented in Galkayo/Central zone, and all victims were girls under the age of 16. At least half of the rapes cases were alleged to be gang rape by pirates. Legal and policy provisions

need to be put in place to ensure that these children are treated in accordance with relevant international standards and norms for the protection of children alleged as, accused of or recognized as having infringed the penal law.

**Human rights**

72. The increasing trend of the use of violence by pirates against their captives, both severe physical and psychological abuse, has been more frequently observed in recent studies, and highlights the crucial importance of bringing the transgressors to justice. While prosecutions of acts of piracy continue to be conducted in several States, the strengthening of the rule of law in Somalia, while respecting the country's territorial integrity and sovereignty, is central to bringing about justice. Human rights considerations continue to be important in guiding the actions of States in all phases of counter-piracy operations, including the apprehension, the detention, the prosecution and the transfer of suspected pirates, and equally in the imprisonment of convicted pirates. The United Nations, through the work of UNDP, UNPOS, the Office of the United Nations High Commissioner for Human Rights, UNODC and other entities, is assisting Somalia to build the necessary capacity in the areas of human rights, security and justice.

## V. Targeted sanctions

73. The final report of the Monitoring Group on Somalia and Eritrea, established pursuant to resolution 1916 (2010), issued on 18 July 2011 (S/2011/433), points to the growing importance of pirate negotiators. The recommendations of the Monitoring Group with regard to piracy include designating pirates identified by the Monitoring Group or Member States for targeted measures; establishing, as an interim measure, a specialized investigative body with a mandate to collect information, gather evidence and record testimonies; outboarding engines of 40 horsepower and above, as "dual-use" items, whose transfer, sale or export to Somalia represents a potential breach of the general and complete arms embargo; the establishment of a transparent coordination and regulatory framework for the issuance of fishing licences; the designation of a NATO responsible officer to whom the Monitoring Group may send formal requests for cooperation and information sharing; and the establishment of an international legal framework that regulates the activities of private maritime security companies providing armed protection to vessels in international waters. The Monitoring Group has recommended several pirate leaders for designation under Security Council resolution 1844 (2008).

74. On 29 July 2011, the Security Council adopted resolution 2002 (2011), by which it extended and expanded the mandate of the Monitoring Group on Somalia and Eritrea. The Monitoring Group began its work in September 2011 and will continue to investigate and report on pirate militias and their financiers, facilitators, negotiators, active supporters and beneficiaries.

## VI. Coordination role of the United Nations

75. Addressing piracy and armed robbery at sea off the coast of Somalia has posed a complex challenge to Somalia and the international community. The response has been multifaceted, involving State and non-State actors from a wide geographical

area, and covering a large area of expertise, both civilian and military. The United Nations has supported this response through the mobilization of several departments, programmes and specialized agencies. Central to the success of these efforts is their effective coordination, ensuring that they are integrated into the overall strategy aimed at achieving a peaceful Somalia that can eventually address its law and order challenges.

76. UNPOS, as the United Nations focal point for counter-piracy off the coast of Somalia, has established a Nairobi-based integrated task force of relevant United Nations entities working on Somalia called the Nairobi Cluster, with regional organizations as partners. UNPOS also co-chairs a counter-piracy technical working group with the participation of Member States involved in counter-piracy efforts. It further facilitates the coordination of Somali efforts, together with IMO and UNODC, through the Kampala Process, and leads outreach activities. In 2011 UNPOS launched a public information campaign through local partners, including in "Puntland" and in South Central Somalia. Community and religious leaders, government officials, youth and women's groups and Somali media participated in the project.

77. At Headquarters, the sub-working group on piracy of the Integrated Task Force for Somalia, chaired by the Department of Political Affairs of the United Nations Secretariat and comprising 16 United Nations entities and INTERPOL, continued to meet regularly to ensure information sharing and coordination of the United Nations counter-piracy efforts. In addition, the Under-Secretary-General for Political Affairs chairs the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia. The United Nations remains committed to working closely with the Contact Group on the development of strategic priorities of the international counter-piracy response, and to ensure that those efforts are closely integrated with our common support for Somalia's peace process.

## VII. Observations

78. In a few short years, the international community has considerably advanced the fight against piracy off the coast of Somalia. The continued naval presence of Member States has succeeded in reducing the number of incidents of piracy and armed robbery at sea in the region and led to an increase in the number of pirates being arrested and prosecuted. Information sharing and coordination among a large variety of international naval forces through the innovative Shared Awareness and Deconfliction mechanism improved. There is a greater level of cooperation between the navies, shipowners and international law enforcement. More shipowners are protecting their staff and vessels through the implementation of the Best Management Practices, which are still considered the first line of defence against piracy and are now more widely disseminated. Also, work is progressing to track the financial dealings of the masterminds of the piracy enterprise.

79. The protection of the much-needed humanitarian shipments carried out by WFP, and of the AMISOM supply lines, is valuable in terms of alleviating the suffering inside Somalia, as well as coping with the military changes on the ground. I wish to thank, inter alia, the European Union, NATO and all Member States participating in the deterrence effort at sea.

80. Despite the recent successes in containing pirates, the threat of piracy remains. In fact, that threat extends to wider areas because of the increasing sophistication of means available to the pirates. In addition, Somali pirate attacks are expected to surge in the coming weeks after the monsoon season abates. It is therefore necessary for Member States and other international actors to redouble their efforts in order to build upon the recent successes.

81. I am concerned by the reports of linkages between Al-Shabaab and pirate groups. Stronger law enforcement measures by some regional authorities in Somalia have had the effect of pushing pirate dens into areas that straddle Al-Shabaab's zone of influence.

82. I have stressed that the fight against piracy off the coast of Somalia can be won only through an integrated strategy that tackles deterrence, security and the rule of law, and development. Such an approach suggests that the factors that feed piracy would need to be tackled more forcefully both by Somalia and the international community. Counter-piracy efforts should be a more integral element of the Somalia peace process. In this regard, the segments related to counter-piracy of the recently agreed Mogadishu road map are a step in the right direction.

83. While the elimination of piracy is a central goal, it would be important to lay out interim priorities in fighting the scourge. One such goal would be to complement current maritime security operations with more effort inshore, in the zone between the coast and international waters. I am aware of the legal and resource issues this proposition raises, and of the concerns with developing coast guard capacity in the region. This aspect of the counter-piracy effort requires closer attention.

84. I encourage Member States and multinational organizations to consider how they could contribute further to address the root causes of piracy, including through developing land-based initiatives to strengthen Somali and regional maritime and law enforcement capacity. In addition, there is a need to further probe how the logistical chain used by pirates on land could be disrupted. There is a risk that groups engaging in piracy will use their financial and fire power to consolidate and enlarge their land-based militias. The financial and arms dealings of pirate gangs would need to be targeted more vigorously, including by making stronger use of the Somalia sanctions regime. This could entail a strengthening of the investigative mandate of the monitoring group in relation to piracy, and putting the pirate masterminds on the corresponding sanctions list.

85. I am deeply concerned at the fate of the victims from all over the world who remain in the hands of the pirate criminals. Most often, they are kept in difficult and inhumane conditions. I encourage States, industry and humanitarian organizations to expand initiatives that help relieve the suffering of captive mariners and others exposed to the trauma of a piracy attack. I support a call by the recently held counter-piracy conference in Dubai to hold a conference that addresses these issues. I would like to express my gratitude to all involved in helping to secure the release of hostages, including Somali authorities, Governments, regional organizations, industry and relevant United Nations entities.

United Nations S/2011/663

Security Council

Distr.: General
26 October 2011

Original: English

**Letter dated 25 October 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council**

I have the honour to forward a letter dated 24 October 2011 from Osman Saleh, Minister for Foreign Affairs of the State of Eritrea, addressed to you in connection with the request of President Isaias Afwerki to address the Security Council (see annex).

I would be most grateful if the letter could be circulated as a document of the Security Council.

(*Signed*) Araya **Desta**
Ambassador
Permanent Representative

11-56533 (E) 271011

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## Annex to the letter dated 25 October 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

In the light of the ongoing negotiations at the Security Council on the adoption of severe economic and financial measures on my country without concretely substantiating the allegations levelled against Eritrea, I am, once again, compelled to write you this letter as a follow-up to my letter of 7 October 2011 (S/2011/623) and also to present my Government's protest, in the strongest possible terms, about the Gabonese draft resolution.

Given the gravity of the matter and its serious implications for the Eritrean people and for regional peace and security, I wish to inform you that Isaias Afwerki, President of the State of Eritrea, is requesting to address the Security Council at the earliest mutually convenient time. The President's address to the Council shall include issues related to Ethiopia's occupation of sovereign Eritrean territory and Eritrea's constructive regional policies and its broad and positive engagements. My President looks forward to having the opportunity to address the esteemed Council members on his Government's considered views so as to enable the Council to make a crucial contribution to peace and stability in the Horn of Africa.

I would be most grateful if a prompt response would be given to my President's request to address the Security Council.

(*Signed*) Osman **Saleh**
Minister for Foreign Affairs

United Nations S/2011/664

# Security Council

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27 October 2011

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## Note by the President of the Security Council

At its 6641st meeting, held on 27 October 2011, the Security Council considered its draft report to the General Assembly covering the period from 1 August 2010 to 31 July 2011. The Council adopted the draft report without a vote.

11-56716 (E) 271011

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United Nations A/ES-10/536–S/2011/665

General Assembly
Security Council

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27 October 2011

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**General Assembly**
**Tenth emergency special session**
Agenda item 5
**Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory**

**Security Council**
**Sixty-sixth year**

## Identical letters dated 26 October 2011 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

We write today to express our grave concern about the incitement by Israel's Foreign Minister against President Mahmoud Abbas. On 24 October, the Israeli Foreign Minister, Avigdor Lieberman, who is the main coalition partner of Prime Minister Benjamin Netanyahu, declared that President Abbas was the "greatest obstacle" to peace. The daily Israeli newspaper *Haaretz* quoted Mr. Lieberman as stating, "If there is one obstacle that should be removed immediately, it is [Abbas]".

We unequivocally reject and object to such incitement, which we consider to be a clear threat against the life of President Mahmoud Abbas, whose commitment to peace is absolutely unquestionable, as well as to the prospects for peace. Further, we consider the statement to be the official policy of Israel, the occupying Power, and thus demand that the Israeli Government disavow such provocative statements and incitement to violence. Indeed, we voice our concern that these hostile declarations in fact reflect the true intentions of the Israeli Government, which has deliberately obstructed peace efforts and systematically invested in flagrant violations of international law and the continued illegal colonization of the Occupied Palestinian Territory, including East Jerusalem. Moreover, we believe that such threats must be directly confronted, for they foment hatred and violence towards the Palestinian people and their leadership and exacerbate the already high tensions and deep mistrust between the two sides, leading to a further destabilization of the situation.

Today, we must also reaffirm our condemnation and total objection to the plans by Israel, the occupying Power, to build a new illegal settlement in Occupied East Jerusalem. The planning of another huge new settlement does not bode well for the peace process and yet again reflects that Israel has no intention of ceasing this illegal and destructive colonization campaign and is not interested in the two-State solution for peace that we and the rest of the international community are striving to achieve. It has become clear that the plans for the illegal settlement of "Givat



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Hamatos" will contain at least 4,000 settlement units and will complete the encirclement of Occupied East Jerusalem and effectively sever that city from the rest of the Occupied Palestinian Territory, particularly the city's southern environs in the Bethlehem area.

Additionally, the occupying Power has illegally confiscated 37 dunums of land in the town of Beit Jala to expand the construction of its illegal wall. In addition to causing harm to the families in Beit Jala, this latest confiscation confirms the worst fears of residents in the nearby village of Al-Walaje, who will now be trapped in a so-called "seam zone" as a result of this illegal measure. Yesterday, 25 October, Israel, the occupying Power, also closed down three Palestinian organizations in Occupied East Jerusalem, hence continuing its systematic efforts to void the city of its indigenous Palestinian population and culture.

Today, the members of the Quartet are meeting with the parties in an effort to secure the return to a credible political process aimed at ending Israel's 44-year-old military occupation and achieving peace, security and coexistence between the two sides. And while such efforts are exerted by the many concerned members of the international community, Israel continues to work directly against these aims, once again answering with unilateralism, intransigence and abject disregard for the unanimous will of the international community. This intransigence must not be met with accommodation. Instead, the international community must serve the cause of peace and confront these objectionable actions by insisting on the application of the only acceptable terms for a credible political process, i.e. international law and the relevant United Nations resolutions.

The international community must not allow a belligerent occupying Power to hold the fate of a region and the prospects for peace hostage to its insatiable appetite for colonization, hegemony and oppression. We call on you, acting on behalf of the international community, to exert the necessary efforts at this critical juncture to ensure that international law is respected and that Israel, the occupying Power, ceases all of its illegal measures and actions in the Occupied Palestinian Territory, including East Jerusalem, and ceases its hostile incitement and aggression against the Palestinian people and their leadership and instead commits to compliance with its obligations in international law and the relevant United Nations resolutions. In the absence of this, we regret that all of our efforts towards a peaceful settlement in accordance with the two-State solution on the basis of the pre-1967 borders will be totally undermined and undone.

The present letter is in follow-up to our previous 407 letters regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 17 October 2011 (A/ES-10/535-S/2011/645) constitute a basic record of the crimes being committed by Israel, the occupying Power, against the Palestinian people since September 2000. For all of these war crimes, acts of State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

I should be grateful if you would arrange to have the text of the present letter distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Riyad **Mansour**
Ambassador
Permanent Observer of Palestine to the United Nations